

AO 91 (Rev. 11/11) Criminal Complaint

Agent:

AUSA: Susan Fairchild

Austin Feldman

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UNITED STATES DISTRICT COURT

for the

Eastern District of Michigan

United States of America

v.

Josue Franklin MERCADO

Case No. Case: 2:23-mj-30465
Assigned To : Unassigned
Assign. Date : 11/21/2023
USA V. MERCADO (CMP)(CMC)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of November 17, 2023 in the county of Wayne in the
Eastern District of Michigan, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
Title 8, United States Code, Section 1326(a)	Unlawful Re-entry after Removal from the United States

This criminal complaint is based on these facts:

On or about November 17, 2023, in the Eastern District of Michigan, Southern Division, Josue Franklin MERCADO, an alien from Honduras was found in the United States after having been denied admission, excluded, deported, and removed therefrom on or about July 13, 2016, at or near El Paso, Texas and not having obtained the express consent of the Attorney General of the United States or the Secretary of Homeland Security to re-apply for admission thereto; in violation of Title 8, United States Code, Section 1326(a).

☒ Continued on the attached sheet.

Sworn to before me and signed in my presence
and/or by reliable electronic means.

Date: November 21, 2023

City and state: Detroit, MI


Complainant's signature

Austin Feldman, CBP Agent
Printed name and title


Judge's signature

Kimberly Altman, United States Magistrate Judge
Printed name and title

AFFIDAVIT

I, Austin J. Feldman, declare the following under penalty of perjury:

1. I am a Border Patrol Agent with the United States Department of Homeland Security, United States Border Patrol. I have been with the United States Border Patrol since 2009. Part of my training has included Immigration Law and investigatory practices. In or about 2015, I assisted in preparing cases for prosecution. I am currently assigned as a Disrupt Agent, a plain clothes detail that involves preparing case work for investigations and enforcement purposes.
2. The facts set forth herein are based upon my personal knowledge as well as information provided by other law enforcement officers to include Border Patrol Agents and record checks of law enforcement databases. I have also reviewed the immigration file and system automated data relating to Josue Franklin MERCADO, which attests to the following:
3. MERCADO is a 32-year-old male, native and citizen of Honduras, who last entered the United States at an unknown place, on an unknown date without being admitted, inspected or paroled by an Immigration Officer.
4. On December 13, 2015, MERCADO was encountered by the Casa Grande Border Patrol Station, and was charged and convicted of 21 U.S.C. § 844, knowingly and intentionally possessing a quantity of marijuana, a Schedule I controlled substance. MERCADO was committed to the custody of the Bureau of Prisons for a period of 180 days with credit for time served. Following his sentence, he was given an Expedited Removal to Honduras and was removed on July 13, 2016.
5. On April 10, 2018, MERCADO was encountered by McAllen Texas Border Patrol and was charged with Title 8 U.S.C. § 1325, Unlawful Entry. His prior Order of Removal was reinstated. He was convicted of Unlawful Entry and was sentenced to a term of imprisonment of 60 days. He was removed from the United States following his term of imprisonment.
6. On January 1, 2022, MERCADO was arrested by San Francisco Sheriff's Department. He was subsequently charged and convicted of Driving Under the Influence and Possession of a Controlled Substance. He was removed from the United States on or about January 15, 2022.

7. On November 17, 2023, at approximately 2:15 PM Gibraltar Station was contacted by Lincoln Park Police Department concerning an individual they encountered making an illegal left turn at Fort Street and Southfield Rd, in Lincoln Park, Michigan. A Border Patrol Agent was called and responded to the scene to assist with identification. BPA Verdugo approached MERCADO, identified himself as a Border Patrol Agent and conducted an Immigration inspection. MERCADO freely admitted to being a citizen and national of Honduras and admitted that he was in the United States illegally.
8. MERCADO's fingerprints and photograph were captured and entered into the Automated Biometric Identification System (IDENT) and the Integrated Automated Fingerprint Identification System (IAFIS). The results revealed that MERCADO is a citizen of Honduras who has been previously removed from the United States. The record checks did not provide any evidence that MERCADO legally entered the United States or had been issued any legal immigration document allowing him to enter or remain in the United States.
9. The aforementioned arrest and subsequent detention was an administrative, non-criminal action made pursuant to the authority found in sections 1357, 1225, 1226, and/or 1231 of Title 8, United States Code to arrest and detain any alien entering or attempting to enter the United States, or any alien present in the United States, who is reasonably believed to be in violation of any law or regulation regulating the admission, exclusion, expulsion, or removal of aliens.
10. Review of the Alien File (A# XXX XXX 778) for Josue Franklin MERCADO and queries in U.S. Border Patrol computer databases confirm no record exists of him obtaining permission from the Attorney General or the Secretary of the Department of Homeland Security to re-apply for admission to the United States after removal from the United States on or about July 13, 2016.
11. Based on the above information, I believe there is probable cause to conclude that Josue Franklin MERCADO is an alien who was found in the United States after removal, without the express permission from the Attorney General of the United States or from the Secretary of the Department of Homeland Security to re-apply for admission into the United States in violation of Title 8, United

States Code, Section 1326(a)(1).



Austin J. Feldman, Border Patrol Agent
U.S. Department of Homeland Security

Sworn to before me and signed in my
presence and/or by reliable electronic means.



Honorable Kimberly Altman
United States Magistrate Judge

Dated: November 21, 2023